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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/681,558 | 10/07/2003 | Christopher John Stakutis | SJO920030058US1 | 9451 |

46917 7590 04/19/2006

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| EXAMINER | |
|---|---|
| KIM, PAUL | |
| **ART UNIT** | **PAPER NUMBER** |
| 2161 | |

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

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| **Office Action Summary** | **Application No.**<br>10/681,558 | **Applicant(s)**<br>STAKUTIS ET AL. | |
| | **Examiner**<br>Paul Kim | **Art Unit**<br>2161 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on *07 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) *1-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24, and 27-43* is/are rejected.

7)☒ Claim(s) *25 and 26* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**SAM RIMELL**
**PRIMARY EXAMINER**

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *07 October 2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

1. This Office action is responsive to the following communication: Original Application filed on 07 October 2003.

2. Claims 1-43 are pending and present for examination.

### *Specification*

3. The disclosure is objected to because of the following informalities:

a. Specification, paragraph [0036], the following sentence is objected to:

> "In such cases, the article of manufacture in which the code is implemented may comprise a transmission media, such as a network transmission line, wireless transmission media, signals propagating through space, radio waves, infrared signals, etc."

While it is proper to say that a transmission medium transmits data (including program code), it is not proper nor correct to say that a transmission medium "implements" code by the activity of transporting the code. Unlike a conventional data recording media, such as an optical or magnetic disk, which implements stored code as tangible (i.e., physical, structural) changes to the media, in the above language, the transmission does not "implement" stored code while the code is being transmitted.

Examiner's Note: For example, in the case of an optical medium storing code the "implementing" of the code means that certain regions of the optical disk material have been tangibly (physically, structurally) altered so that these regions reflect laser light differently when they have stored a "0" rather than a "1". And, in the optical disk, a particular region is tangibly changed by the implementation process, for example, a write consists of a laser "burn" of that region to make a tangible difference in the media. However, in the case of a wired (or wireless) network path over which so-called "implemented" code is being transmitted, there is no tangible (physical, structural) change to the transmission media, whether air, space, optical fiber, or copper wire.

In the above language there is no equivalent process to the laser "burn" in relation to the transmission medium when a transmitted electromagnetic carrier wave transports embedded program code across a transmission path of a network. The transmission of program code across such a transmission medium is an entirely different process than the storage of program code in a storage medium because the transmission media does not experience any tangible, structural change by the process of transmission (or the so-called "implementation").

See *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. *"The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and* *tangible* *result'* "(emphasis added).

In the above language,

i. The claimed invention (program code being transported across a wireless medium) does not accomplish any useful, concrete and tangible result because the code does not tangibly, structurally alter the medium, and

ii. The code has not functionality in the state of being transmitted because the embedded code cannot be executed as there does not exist any known processor able to execute the transmitted program code while in the process of being transmitted. Before the transmitted program code can be executed it must first be received and extracted from the transmission encoded carrier wave, and then stored on a suitable computer readable medium from which it can be executed by a processor as a functional part of a computer machine which includes the processor and the stored code. Until these steps are taken the transmitted program code has no program functionality, but instead, in the transmitted state the transmitted code can only represent, or is equivalent to, non-functional descriptive material.

Therefore, the Specification erroneously asserts that program code being transmitted across a transmission medium somehow represents "implemented code." However, this is not true because the Specification does not teach details of how such an "implementation" makes any tangible (Physical, structural) alteration of the transmission media, or how the transmitted code can be executed by a processor while in the state of being transmitted. The state of the above language would require undue experimentation by one of ordinary skill in the art to read Applicant's disclosure and then to accomplish tangible implementation of the transmitted program code or to accomplish execution of the transmitted program code. Furthermore, notwithstanding that the transmitted code clearly is contained in the transmission medium (because it is transported through the medium), "contained" and "implemented" do not carry the same meaning.

Applicant's interpretation contradicts *State Street*, because first, when program code is being transmitted in any of the examples of transmission media listed above, no tangible (physical, structural) change has been made to the transmission media by the so-called "implementation" of the transmitted. Secondly, program code being transmitted cannot be executed by any known processor to perform any of the code's intended functionality, because in that state, the transmitted code remains nothing more than non-functional descriptive material.

b. Specification, paragraph [0036], the following sentence is objected to:

> "Thus, the 'article of manufacture' may comprise the medium in which the code is embodied."

Because this sentence, taken together with the previous sentence, further suggest that program code can be "embodied" in an intangible medium such as signals propagating through space, or that program code can be "embodied" in a tangible network path which merely carries encoded electromagnetic signals. However, for all the reasons noted above in paragraph (a0, and incorporated herein, these concepts do not reflect a permissible or correct interpretation of what kinds of media can "embody" program code under 35 U.S.C. § 101 in view of *State Street* since in neither case does such code tangibly (structurally, physically) alter the transmission media (whether air, space, or wire) nor can such code be executed by any process to attain the intended code's functionality while in the state of transmission.

Appropriate correction is required.

## *Claim Rejections - 35 USC § 101*

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 1-15** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward "a method for archiving file," and are non-statutory because they do not encompass tangible subject matter and/or embodiments which fall within a statutory category.

The claims make no mention of a tangible medium wherein existing code may be processed to perform the recited steps in the claims. See State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106. "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result' " (emphasis added).

6. **Claims 29-43** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward "an article of manufacture" which "causes operations to be performed," and are non-statutory because they encompass subject matter and/or embodiments which do not fall within a statutory category.

The meaning of "article of manufacture" as disclose in the Specification, paragraph [0036], covers non-statutory embodiments which improperly include network transmission lines (interpreted as wired and wireless transmission), wireless transmission media, signals propagating through space, radio waves, infrared signals, etc. For the aforementioned reasons discussed in the objections to the Specification, paragraphs 3(a)-(b), which are incorporated herein, the claimed invention does not properly cover only statutory subject matter (e.g., program code being transmitted over wired or wireless transmission media) because in such a case there is no tangible embodiment of program code in a computer readable medium executed by a processor, and further because the disclose program code being transmitted across the transmission media cannot be executed by any known processor. Therefore, the transmitted program code lacks functional capability because, absent execution, it cannot cause any of the claimed operations to be performed, and so, in the state of being transmitted, the program code represents nothing more than non-functional descriptive material. Moreover, under 35 U.S.C. § 101, signals propagating through space, radio waves, and infrared signals are not permissible "articles of manufacture" because they have no tangible embodiment.

## *Claim Rejections - 35 USC § 112*

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. **Claims 29-43** are rejected under 35 U.S.C. § 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well -established utility.

The claims are directed toward "an article of manufacture" which "causes operations to be performed." The claimed article of manufacture refers to code implemented in a computer readable medium which covers a transmission medium including: a network transmission line, wireless transmission media, signals propagating through space, radio waves, and infrared signals. See Specification, paragraph [0036]. These instances of transmission media are not supported by either a specific and substantial asserted utility or a well-established utility in association with any inherent properties of the code that is being transported because at no time during the transmission of code is any code capable of being executed to cause any operations to be performed since no code is executed during transmission. Furthermore, any code in the state of being transmitted is merely the equivalent of transported data, that is, it is equivalent to non-descriptive material, since data in such a state cannot be executed to achieve any functionality of the code. Broadly speaking, no code being transmitted across a transmission media is ever executed during transmission to achieve the functionality of the transmitted code. The utility of a transmission line is only to accomplish the successful transmission of the embedded code, no matter what the code's purpose is. Otherwise, there cannot be any other utility for the combination of the transmission media and the code being transmitted, other than the accomplishment of the transported code, including any kind of inferred specific utility the embedded code may have when the code is properly stored on a suitable computer readable medium under 35 U.S.C. § 101 and then executed by a processor. In summary, the transmission media carrying embedded program code does not interact with any kind of known transmission processor having the ability to execute the embedded transmitted code. Therefore, there is no actual utility for the transmitted code while in the state of being transmitted other than the utility of the non-functional descriptive material being successfully transmitted. The transmitted code therefore cannot be used to accomplish the claimed "operations to be performed" while being transmitted.

9. **Claims 29-43** are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

## *Claim Rejections - 35 USC § 102*

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 1, 5-10, 14-16, 19-24, 27-29, 33-38, 42-43** are rejected under 35 U.S.C. 102(b) as being anticipated by Szalwinski et al (U.S. Patent No. 6,266,679, hereinafter referred to as SZALWINSKI), filed on 12 October 1999, and issued on 24 June 2001.

12. **As per independent claim 1**, SZALWINSKI teaches:

A method for archiving files {See SZALWINSKI, col. 3, lines 55-57, wherein this reads over "a method for archiving"} comprising:

providing a hierarchical file system having directories {See SZALWINSKI, col. 3, lines 55-57, wherein this reads over "a method for archiving and retrieving data in a hierarchical fashion"; and col. 4, lines 10-15, wherein this reads over "a top-level directory is created for archiving data . . . called a vault" and "The vault comprises multiple subdirectories"}; and

associating an archival retention policy with at least one of the directories in the hierarchical file system {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "backup procedure is based upon storing data . . . in response to a predetermined age of archived data" and "To implement the long-term backup procedure, the length of time that a file in a vault subdirectory has resided is detected"}, wherein the retention policy applies to files included in the associated directory {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "length of time that files remain is detected"}, and

wherein the retention policy specifies a retention time indicating a time period during which a file is subject to the retention policy {See SZALWINSKI, col. 5, lines 14-16, wherein this reads over "approximately a one week period of data acquisition time"; and lines 53-65, wherein this reads over "a predetermined maximum residence time . . . approximately six months"}.

13. **As per dependent claim 5, 19, and 33**, SZALWINSKI teaches:

The method of claim 1, wherein the time period comprises one of:

a specified date, wherein the retention policy applies to files in the directory prior to the specified date;

a specified time period, wherein the retention policy applies to each file in the directory for the specified time period following a time the file was modified {See SZALWINSKI, col. 5, lines 14-16, wherein this reads over "approximately a one week period of data acquisition time"; and lines 53-65, wherein this reads over "a predetermined maximum residence time . . . approximately six months"}; and

an unlimited period of time.

Additionally, because "a specified date" and "unlimited period of time" were optionally recited within the claim, they do not carry any patentable weight.

14. **As per dependent claim 6, 20, and 34**, SZALWINSKI teaches:

The method of claim 1, further comprising:

receiving a request directed to a target file {See SZALWINSKI, col. 4, lines 25-29, wherein this reads over "[o]nce data is ready to be stored, the archiving process is executed" and "[f]iles to be archived are received from the primary database"};

determining whether the target file is included within the directory associated with the retention policy {See SZALWINSKI, col. 5, lines 38-65, wherein this reads over "a file in a vault subdirectory"};

determining whether the retention time of the retention policy indicates that the target file is currently subject to retention in response to determining that the target file is included within the directory associated with the retention policy {See SZALWINSKI, col. 5, lines 38-65, wherein this reads over "the length of time that a file in a vault subdirectory has resided is detected" and "a decision is made regarding whether the latest file written into the vault subdirectory has resided there for a predetermined maximum residence time"}; and

applying the retention policy to the target file if the target file is currently subject to the retention policy {See SZALWINSKI, col. 5, line 66 – col. 6, line 3, wherein this reads over "[w]hen the latest file that is written into a vault subdirectory has resided therein for at least the maximum residence time, the vault subdirectory containing that file is backed up onto a backup storage medium"}.

15. **As per dependent claims 7, 21, and 35**, SZALWINSKI teaches:

The method of claim 6,

wherein the retention policy applies up until the retention time, and wherein the retention policy applies to the target file if a current time is not greater than the retention time {See SZALWINSKI, col. 5, lines 53-65, wherein this reads over "a decision is made regarding whether the latest file written into the vault subdirectory has resided there for a predetermined maximum residence time"}.

16. **As per dependent claims 8, 22, and 36**, SZALWINSKI teaches:

The method of claim 6,

wherein the retention time specifies a time period, and wherein the retention policy applies to the target file if a current time is not greater than a time comprising a time the target file was last modified plus the specified time period {See SZALWINSKI, col. 5, lines 38-65, wherein this reads over "[t]he modification date of the vault subdirectory generally indicates the time that the last file was written into that subdirectory" and "the predetermined maximum residence time is generally limited to approximately six months"}.

17. **As per dependent claim 9, 23, and 37**, SZALWINSKI teaches:

The method of claim 6,

wherein the request directed to the target file comprises a request to erase or move the target file {See SZALWINSKI, col. 5, line 38 – col. 6, lines 16, wherein this reads over "[t]hen the latest file that is written into a vault subdirectory has resided therein for at least the maximum residence time, the vault subdirectory containing that file is backed up"}, and

wherein applying the retention policy comprises preventing the request to erase or move the target file from occurring {See SZALWINSKI, col. 5, lines 62-65, wherein this reads over "[i]f the latest file in a vault subdirectory has not resided therein for the maximum residence time, then the long-term backup procedures are not invoked, and the age of stored files are continuously monitored"}.

18. **As per dependent claim 10, 24, and 38**, SZALWINSKI teaches:

The method of claim 6,

wherein if the target file is not currently subject to the retention policy, then allowing the received request directed to the target file to proceed {See SZALWINSKI, col. 5, line 66 – col. 6, line 3, wherein this reads over "[w]hen the latest file that is written into a vault subdirectory has resided therein for at least the maximum residence time, the vault subdirectory containing that file is backed up"}.

19. **As per dependent claim 14, 27, and 42**, SZALWINSKI teaches:

The method of claim 1,

wherein additional subdirectories may be included in the directory associated with the retention policy, and wherein the retention policy applies to any file within the additional subdirectories {See SZALWINSKI, col. 3, lines 55-57, wherein this reads over "a method for archiving and retrieving data in a hierarchical fashion"; and col. 4, lines 10-15, wherein this reads over "a top-level directory is created for archiving data . . . called a vault" and "The vault comprises multiple subdirectories"}.

20. **As per dependent claims 15, 28, and 43**, SZALWINSKI teaches:

The method of claim 1,

wherein the directory associated with the retention policy is a subdirectory of another directory {See SZALWINSKI,, col. 4, lines 10-15, wherein this reads over "[t]he vault comprises multiple subdirectories"}.

21. **As per independent claim 16**, SZALWINSKI teaches:

A system {See SZALWINSKI, Figure 1} for archiving files, comprising:

A memory device including a hierarchical file system having directories {See SZALWINSKI, col. 3, lines 55-58, wherein this reads over "a method for archiving and retrieving data in a hierarchical fashion" and "data that is archived can be received from any data source, such as a large database"; and col. 4, lines 10-15, wherein this reads over "a top-level directory is created for archiving data . . . called a vault" and "The vault comprises multiple subdirectories"}; and

means for associating an archival retention policy with at least one of the directories in the hierarchical file system {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "backup procedure is based upon storing data . . . in response to a predetermined age of archived data" and "To implement the long-term backup procedure, the length of time that a file in a vault subdirectory has resided is detected"},

wherein the retention policy applies to files included in the associated directory {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "length of time that files remain is detected"}, and

wherein the retention policy specifies a retention time indicating a time period during which a file is subject to the retention policy {See SZALWINSKI, col. 5, lines 14-16, wherein this reads over "approximately a one week period of data acquisition time"; and lines 53-65, wherein this reads over "a predetermined maximum residence time . . . approximately six months"}.

22. **As per independent claim 29**, SZALWINSKI teaches:

An article of manufacture for archiving files {See SZALWINSKI, Figure 1, wherein this discloses a "Network"}, wherein the article of manufacture causes operations to be performed, the operations comprising:

providing a hierarchical file system having directories {See SZALWINSKI, col. 3, lines 55-57, wherein this reads over "a method for archiving and retrieving data in a hierarchical fashion"; and col. 4, lines 10-15, wherein this reads over "a top-level directory is created for archiving data . . . called a vault" and "The vault comprises multiple subdirectories"}; and associating an archival retention policy with at least one of the directories in the hierarchical file system {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "backup procedure is based upon storing data . . . in response to a predetermined age of archived data" and "To implement the long-term backup procedure, the length of time that a file in a vault subdirectory has resided is detected"},

wherein the retention policy applies to files included in the associated directory {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "length of time that files remain is detected"}, and

wherein the retention policy specifies a retention time indicating a time period during which a file is subject to the retention policy {See SZALWINSKI, col. 5, lines 14-16, wherein this reads over "approximately a one week period of data acquisition time"; and lines 53-65, wherein this reads over "a predetermined maximum residence time . . . approximately six months"}.

### *Claim Rejections - 35 USC § 103*

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24. **Claims 13 and 41** are rejected under 35 U.S.C. 103(a) as being unpatentable over SZALWINSKI, in view of Official Notice.

SZALWINSKI teaches the limitations of claims CCCC for the reasons stated above.

SZALWINSKI differs from the claimed invention in that SZALWINSKI fails to disclose a method wherein the directories and files therein are stored in a magnetic storage medium (claims 13 and 41).

25. **As per dependent claims 13 and 41**, SZALWINSKI, in view of Official Notice, discloses a method wherein the retention policy comprises a non-re-writable and non-erasable retention policy and wherein the directories and files therein are stored in a magnetic storage medium. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have directories and files stored in a magnetic storage medium.

26. **Claims 2, 17, and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over SZALWINSKI, in view of Reynolds et al (U.S. Patent No. 6,286,013, hereinafter referred to as REYNOLDS), filed on 28 January 1997, and issued on 4 September 2001.

SZALWINSKI teaches the limitations of claims CCCC for the reasons stated above.

SZALWINSKI differs from the claimed invention in that SZALWINSKI fails to disclose a method wherein a retention policy code is indicated in a pathname of the directory (claims 2, 17, and 30).

27. **As per dependent claims 2, 17, and 30**, SZALWINSKI, in combination with REYNOLDS, discloses a method wherein associating the archival retention policy with one directory {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "backup procedure is based upon storing data . . . in response to a predetermined age of archived data" and "To implement the long-term backup procedure, the length of time that a file in a vault subdirectory has resided is detected"} comprises indicating a retention policy code in a pathname of the directory {See REYNOLDS, Fig. 3a; and col. 5, lines 12-47, wherein this reads over "a file attributes field . . . specify[ing] information about the associated file"}.

The combination of inventions disclosed in SZALWINSKI and REYNOLDS would disclose a method wherein a associating the archival retention policy with one directory (i.e. implementing a backup procedure on a vault subdirectory) comprises indicating a retention policy code in a pathname of the directory (i.e. including the name of the policy within the file attributes field of the short filename directory entry). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above invention suggested by SZALWINSKI by combining it with the invention disclosed by REYNOLDS.

One of ordinary skill in the art would have been motivated to do this modification so that the user may, using the file system user interface, "drag and drop" files from a directory to a retention directory accordingly.

28. **Claims 3, 4, 18, 19, 31 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over SZALWINSKI, in view of REYNOLDS, and in further view of MacPhail (U.S. Patent No. 4,899,299, hereinafter referred to as MACPHAIL), filed on 23 December 1987, and issued on 6 February 1990.

SZALWINSKI teaches the limitations of claims CCCC for the reasons stated above.

SZALWINSKI differs from the claimed invention in that SZALWINSKI fails to disclose a method wherein the retention policy code in the pathname specifies a time period (claims 3, 18, and 31).

SZALWINSKI differs from the claimed invention in that SZALWINSKI fails to disclose a method wherein the retention policy code in the pathname of the directory provides a description of the retention policy (claims 4, 19, and 32).

29. **As per dependent claims 3, 18, and 31**, SZALWINSKI, in combination with MACPHAIL and REYNOLDS, discloses a method wherein the retention policy code {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "backup procedure is based upon storing data . . . in response to a predetermined age of archived data" and "To implement the long-term backup procedure, the length of time that a file in a vault subdirectory has resided is detected"} in the pathname {See REYNOLDS, Fig. 3a; and col. 5, lines 12-47, wherein this reads over "FIG 3a illustrates the format of the short filename directory entry" and "time of last update field"} specifies a time period {See MACPHAIL, col. 2, lines 49-51, wherein this reads over "[t]he ownership expiration date is set by the owner to indicate the length of time that the owner desires ownership of the document"} during which the retention policy applies to files within the directory.

The combination of inventions disclosed in SZALWINSKI, REYNOLDS, and MACPHAIL would disclose a method wherein the retention code policy code in the pathname specifies a time period during which the retention policy applies to files within the directory (i.e. the ownership expiration date). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above invention suggested by SZALWINSKI by combining it with the inventions disclosed by REYNOLDS and MACPHAIL.

One of ordinary skill in the art would have been motivated to do this modification so that the user may, using the file system user interface, "drag and drop" files from a directory to a retention directory according to the specific time period that files or records within a directory are to be retained.

30. **As per dependent claims 4, 19, and 32**, SZALWINSKI, in combination with MACPHAIL and REYNOLDS, discloses a method, wherein the retention policy code {See SZALWINSKI, col. 5, lines 38-52, wherein this reads over "backup procedure is based upon storing data . . . in response to a predetermined age of archived data" and "To implement the long-term backup procedure, the length of time that a file in a vault subdirectory has resided is detected"} in the

pathname of the directory provides a description of the retention policy {See REYNOLDS, Fig. 3a; and col. 5, lines 12-47, wherein this reads over "a file attributes field . . . specify[ing] information about the associated file"}.

The combination of inventions disclosed in SZALWINSKI, REYNOLDS, and MACPHAIL would disclose a method wherein the retention policy code in the pathname of the directory provides a description of the retention policy (i.e. contains a file attributes field detailing the time period of the policy). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above invention suggested by SZALWINSKI by combining it with the inventions disclosed by REYNOLDS and MACPHAIL.

One of ordinary skill in the art would have been motivated to do this modification so that the user my, using the file system user interface, "drag and drop" files from a directory to a retention directory according to the description of the retention policy contained in the pathname of the directory.

## *Allowable Subject Matter*

31. **Claims 25 and 26** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

## *Conclusion*

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272 2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571)272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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**SAM RIMELL**
**PRIMARY EXAMINER**